IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.4486 OF 2005

Vasant Krishna Gawda ...Applicant
Vs.
The State of Maharashtra ...Respondent

Shri. Santosh Deshpande for the Applicant.
Shri. A.S.Gadkari, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : AUGUST 05, 2005.

P.C.:

1. Heard Advocate for the Applicant and the learned A.P.P. for the State. The Applicant and others are charged under sections 341, 452, 392, 394, 34 of the Indian Penal Code read with sections 3 and 25 of the Arms Act. The Application for bail made by the Applicant in the Sessions Court has been rejected.

2. The case of the prosecution is that three persons came to the residence of the first informant Ramaben on 29th March, 2004 in afternoon. The age of the first informant is seventy two years. It is alleged that at that time, the Applicant and her old husband were taking lunch. As the door bell rang, their servant opened the door when the three persons standing outside the door claimed to be belonging to a courier service and one after other they entered the residential premises of the complainant and bolted the main door from inside. One of them was carrying a revolver and by threatening the servant by revolver,

he was taken to a room. The other person threatened the husband by showing a weapon like revolver and his hands were tied by rope and they affixed a tape on his mouth. The third accused showed knife to the first informant and first informant was taken to a room. The first informant was thrown on the bed and the third accused sat on her person and tied her hands by rope and took away a bunch of keys from the first informant. The allegation is that large number of ornaments and articles were taken by the accused.

3. The learned Advocate for the Applicant submitted that the first informant has given different description and valuation of the stolen property on different ocassions. He submitted that before the Identification Parade, the first informant was called to the Police Station and her statement has been recorded. He submitted that it is obvious that the first informant had opportunity to see the accused persons who were in the Police Station before the Identification Parade was conducted. He submitted that the recovery made at the instance of the Applicant is also doubtful in the sense that the description of the property recovered does not match with the weight of the stolen ornaments given by the first informant. He submitted that the Applicant has been in custody for long time i.e. from April 2004 and now the Applicant cannot be kept in custody. The

learned A.P.P. has pointed out relevant material against the Applicant.

4. In the Test Identification Parade, it is stated that the first informant as well as the servant identified the Applicant as the accused who was having a knife and the one who tied the hands of first informant with rope and who snatched bunch of keys from the first informant. In so far as the alleged defect in the Identification Parade is concerned, it is matter for evidence. The perusal of the F.I.R., letters dated 29th March, 2004 and 28th April, 2004 as well as further statement of the first informant dated 30th April, 2004 prima facie show that there are no serious discrepencies in the description of ornaments and the valuation assigned by the first informant. On the date on which such brutal offence is committed, a seventy two years old lady is not expected to give description of stolen ornaments with specific reference to the precise weight and price thereof.

5. At this stage, there is sufficient material on record to show complicity of the Applicant. No case is made out for grant of bail. Accordingly, Application is rejected.

6. Liberty to the Applicant to apply for expeditious disposal of the trial.

JUDGE